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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,708	08/17/2001	Dean Larry DuVal	8210	5772

27752 7590 08/25/2003

THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
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CINCINNATI, OH 45224

EXAMINER

BOYER, CHARLES I

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 08/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/932,708

Applicant(s)

DuVal

Examiner

Charles Boyer

Art Unit

1751



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Aug 17, 2001
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 6) ☐ Other:

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## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1, 13, 19, 31, and 32 are objected to because of the following informalities: These claims contain the typo "reduce the reduce the". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Before citing the references against the present claims, the examiner would like to state for the record that due to the inordinate breadth of the present claims, requiring only a composition containing a carrier and either a preservative or odor control agent, the examiner maintains that a thorough search is impossible. There are scores of odor controlling compositions that will anticipate at least claim 1 of the present application. Furthermore, the deodorizing property is only the ultimate utility of the claims. Any composition with a carrier and preservative, of which there are hundreds, if not thousands, will also anticipate present claim 1. The examiner has taken into consideration the present invention as a whole, in order to identify the closest prior art, which art is cited below. Applicants should be aware however, that there are many other references that

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could have been cited against the present invention. Any response from applicants to the references cited below that does not also address the fact that their claims are extremely broadly written, together with a clear statement of what applicants consider to be the novelty of their invention, would likely not be successful in rendering those claims allowable.

3. Claims 1, 2, 8-10, 17, 18-20, 26, 28, and 36 are rejected under 35 U.S.C. 102(a) as being anticipated by Woo et al, US 5,942,217.

Woo et al teach cyclodextrin compositions for odor control (see abstract). An example of such a composition comprises cyclodextrin, polyalkyleneoxide polysiloxane, perfume, propylene glycol, preservative, and the balance water wherein the composition is sprayed onto fabrics and has a pH of 4 (col. 37, example XVIII). Another example comprises cyclodextrin, polyalkyleneoxide polysiloxane, polyacrylic acid, perfume, preservative, and the balance water wherein the composition is sprayed onto fabrics and has a pH of 4.5 (col. 39, example LIII). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

4. Claims 1, 13, 19, and 32 are rejected under 35 U.S.C. 102(a) as being anticipated by Thomas et al, US 5,976,193.

Thomas et al teach an odor removal composition (see abstract). An example of such a composition consists of magnesium sulfate in water wherein the compositions are sprayed on

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nylon, well known in the art as a protective and ballistic fiber (col. 3, table). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woo et al, US 5,942,217.

Woo et al are relied upon as set forth above. Note that the compositions of Woo et al are suitable for treating nylon fabrics (col. 8, lines 46-50). It would have been obvious to one of ordinary skill in the art to use the compositions of Woo et al on protective and ballistic fabrics as nylon is taught by Woo et al as a fabric that may be treated by their compositions.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Boyer whose telephone number is (703) 308-2524. The examiner can normally be reached on Monday-Friday from 9:30 AM - 6:00 PM.

If reasonable attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for this

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Group is (703) 872-9310 for non-after-final amendments and (703) 872-9311 for after-final amendments.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Charles Boyer

A handwritten signature in cursive script that reads "Charles Boyer". The signature is written in black ink and is positioned to the right of the printed name "Charles Boyer".

August 20, 2003